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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,871	12/02/2003	Randall S. Hickle	82021-0043	1629
24633	7590	08/13/2004	EXAMINER	
HOGAN & HARTSON LLP IP GROUP, COLUMBIA SQUARE 555 THIRTEENTH STREET, N.W. WASHINGTON, DC 20004				FLANAGAN, BEVERLY MEINDL
		ART UNIT		PAPER NUMBER
		3739		

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/724,871	HICKLE, RANDALL S.
	Examiner	Art Unit
	Beverly M. Flanagan	3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
 - 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1,3-5,8,11,15,16,18 and 20-24 is/are rejected.
- 7) Claim(s) 2,6,7,9,10,12-14,17 and 19 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3-5, 8, 11, 15, 16, 18 and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brommersma (U.S. Patent No. 6,645,140) in view of Singh (U.S. Patent No. 6,599,237).

In regard to claims 1, 5, 8, 11, 15, 16, 18, 20 and 21, Brommersma teaches an endoscope 10b having an inner sheath 11b and an outer sheath 16b that form a gap 17b between them (see Figure 4). Figure 1 shows that the distal region of the sheaths 11b and 16b forms bulge 20b an annulus that is adapted for placement on an endoscope. Fluid is freely transferred to the annulus area via the gap 17b and apertures 19b are provided on the bulge 20b to permit fluid flow. **In regard to claim 4,** Figure 1 and 4 show that fluid emanating from apertures 19b would be distributed in an even fashion throughout the body cavity being examined. **In regard to claims 22 and 23,** inherent in the structure disclosed by Brommersma in view of Singh are the method steps recited in claims 22 and 23 of the instant invention. Furthermore, the device of Brommersma in view of Singh is capable of performing the recited functions. **In regard to claims 3 and 24,** Brommersma is silent as to the use of anesthetics or lubricants in the sheaths. However, Singh discloses a similar endoscope having a sheath 10 with a

peripheral duct 36 with an opening 38 through which an anesthetic or lubricant can be introduced (see col. 4, lines 53-67). Singh thus demonstrates that the use of anesthetics or lubricants in the fluid passageways of an endoscope is well known in the art. Accordingly, it would have been obvious for one of ordinary skill in the art at the time the invention was made to utilize anesthetics or lubricants in the gap 17b of Brommersma as the fluid for transport.

Allowable Subject Matter

Claims 2, 6, 7, 9, 10, 12-14, 17 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beverly M. Flanagan whose telephone number is (703) 305-7202. The examiner can normally be reached on Mondays, Tuesdays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (703) 308-0994. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bev M. Flanagan
Primary Examiner
Art Unit 3739
